

MEMO ENDORSED

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October 31, 2013

Via fax (914) 390-4179

Honorable Nelson S. Roman
United States District Judge
The Hon. Charles L. Brieant Jr.
Federal Building and United States Courthouse
300 Quarropas Street
White Plains, New York 10601-4150

Pre-motion Conference is
scheduled for Dec. 13, 2013
at 11:00am. Plaintiff to
respond to this letter in writing
(not to exceed 3 pages) by Dec. 9,
2013.

Dated: Nov. 26, 2013
White Plains, NY

SO ORDERED:


HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE

Re: Llewellyn Angelo Williams v. City of New Rochelle, et al.
13 CV 3315 (NSR)

Dear Judge Roman:

As you know from my prior correspondence, this office is representing the Defendant City of New Rochelle in the above-referenced matter. In addition, we will be appearing for the individually named officers who, I am advised, were served just last week. In addition, as the City of New Rochelle Police Department is a department of the City of New Rochelle, it is not a separate entity which can be sued.

By way of background, the Court held at my request the first pre-motion conference on July 11, 2013 because I was seeking permission to make a motion to obtain a more definite statement of the allegations forming the basis of the plaintiff's original and first amended complaint pursuant to Federal Rules of Civil Procedure Rule 12(e). At that conference, I advised the Court that in prior state court litigation, Mr. Williams had given the City of New Rochelle a general release which released the City and its Police Department of all claims that Mr. Williams may have had against the City and the Police Department up until the date of the release of October 6, 2011. A copy of that release was provided to the Court and Mr. Williams during the July 11 conference.

A second pre-motion conference was held on September 11, 2013 after Mr. Williams filed his second amended complaint. Not only did those pleadings ignore the Court's July 11 instruction to include only claims after the October 6, 2011 by alleging in paragraph 3.B. of the further amended complaint that the events giving rise to his claims occurred between "2008-2013", these new

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Chambers of Nelson S. Roman, U.S.D.J.

pleadings added as new and additional defendants the City of New Rochelle Police Department, Sergeant Daniel Conca, Sergeant John Inzeo and Sergeant Wilson.

Plaintiff's third amended complaint, which is now the subject of this letter, was filed with the Clerk of the Court on October 8, 2013. By these latest pleadings, Mr. Williams now adds two more New Rochelle Police Officers as party defendants, Police Officer Adam Castiglia (incorrectly denominated Castagna in the pleadings) and Police Officer Edward Siller. And once again, Mr. Williams' allegations go, in part, to events that pre-date his release of October 6, 2011 by challenging the 2008 award of the City's contract with Safeway Towing (see Complaint, para. III, subparagraph C). Moreover, plaintiff's challenge in that same paragraph to the City's recent amendment of the Chapter 316 of the Code of the City of the City of New Rochelle does not set forth a proper federal claim.

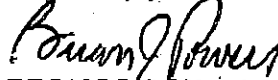
Therefore, I am again requesting that the Court schedule a further pre-motion conference in which I will be asking for the following: (1) permission to move pursuant to Federal Rules of Civil Procedure Rule 12(b) to dismiss all claims arising prior to October 6, 2011 based upon the general release Mr. Williams executed; and (2) permission to move to obtain a more definite statement pursuant to Federal Rules of Civil Procedure Rule 12(e) of the allegations forming the basis of the complaint of those post October 6, 2011 claims. The latest amended pleadings have not cured the prior problem.

I note that your rules indicate that conferences are generally scheduled for Thursdays and Fridays. Over the next few weeks, I am available on the following Thursdays and Fridays: Friday, November 8-all day; Thursday, November 14-all day; Thursday, November 21-any time after 12:30 p.m.; Friday, November 22-any time after 12:30 p.m. If Thursday or Fridays don't work for the Court, please let me know what other days the Court would like.

The plaintiff is appearing *pro se*. I am forwarding a copy of this letter to Mr. Williams via the e-mail address he previously provided along with sending him a hard copy of this letter.

I thank you for your consideration of this letter. If the Court requires anything further, please advise and I will be happy to provide such.

Very truly yours,



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BJP/hs

cc:

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and by first class mail